

**Congress of the United States**  
**Washington, DC 20515**

April 16, 2014

The Honorable John F. Kerry  
Secretary of State  
U.S. Department of State  
2201 C Street, NW  
Washington, D.C. 20520

Dear Secretary Kerry:

You face a difficult choice regarding the Keystone XL tar sands pipeline. Whichever decision you make, some Americans will be unhappy with the outcome. But sometimes the most critical decisions are difficult precisely because there is so much at stake. It is these decisions that are most important to get right.

Here, the choice is between business-as-usual and facing up to the reality of climate change. It's really that simple.

Unfortunately, the Final Supplemental Environmental Impact Statement fails to recognize the reality of what is at stake. The FSEIS systematically downplays the importance of this pipeline and tries to suggest that it will have minimal real-world effects. As a result, as we explain in the attached comments, the detailed assessment of the pipeline's impacts in the FSEIS is seriously flawed, and the broader perspective on what the pipeline means for climate change simply is not there. The conclusions in the FSEIS cannot serve as a reliable basis for assessing the potential impact on climate change of approving the Keystone XL pipeline.

The FSEIS does recognize the following facts. The tar sands are significantly more carbon-intensive than any other source of oil.<sup>1</sup> The Alberta tar sands comprise the third largest proven crude oil reserve in the world, and the industry aims to almost triple production by 2030.<sup>2</sup> Tar sands development is driving rising carbon pollution in Canada and will cause it to miss, by at least 20%, the carbon reduction target that Canada adopted in 2009 under the Copenhagen Accord.<sup>3</sup> Yet the FSEIS fails to recognize that substantially increasing reliance on tar sands oil

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<sup>1</sup> U.S. Department of State, *Final Supplemental Environmental Impact Statement for the Keystone XL Project*, ES-15 (Jan. 2014) (online at: <http://keystonepipeline-xl.state.gov/documents/organization/221190.pdf>) (*hereinafter FSEIS*); National Energy Technology Laboratory, *Development of Baseline Data and Analysis of Life Cycle Greenhouse Gas Emissions of Petroleum-Based Fuels*, 12 (Nov. 26, 2008).

<sup>2</sup> Alberta Energy, *Oil Sands* (online at: <http://www.energy.alberta.ca/ourbusiness/oilsands.asp>); Canadian Association of Petroleum Producers, *Crude Oil Forecast, Markets & Transportation*, i (June 2013) (online at: <http://www.capp.ca/getdoc.aspx?DocId=227308&DT=NTV>) (projecting tar sands production to increase from 1.8 million bpd in 2012 to 5.2 million in 2030).

<sup>3</sup> See *FSEIS* at 4.14-46 to 4.14-47 (citing Environment Canada, *National Inventory Report* (1990-2008 & 1990-2010), and Environment Canada, *Canada's Emissions Trends* (2012)) (online at:

is fundamentally inconsistent with achieving the goal of limiting global temperature increases to no more than two degrees Celsius.

The FSEIS instead argues that the Keystone XL pipeline itself is unlikely to affect the rate of tar sands development and, hence, approval of the pipeline will not matter for climate change. This is where the FSEIS is factually incorrect, in addition to fatally narrow in its perspective.

The reality is that industry has a choice about where to invest. The tar sands are a capital-intensive and relatively expensive source of oil; they are land-locked without direct access to world oil markets; and they could hit the limits of current transport capacity in a year or two.<sup>4</sup> Absent a significant expansion of transport capacity, the industry will not be able to achieve its expansion goals. Pipelines are the least cost option for transportation, and of the current pipeline proposals, the Keystone XL pipeline is the second-to-largest and is the farthest along in the process.<sup>5</sup> Today, industry is counting on Keystone XL, and the pipelines to follow, in its investment decisions.

If Keystone XL is stopped, that is a game-changer for the tar sands. Rejecting Keystone XL declares that carbon pollution matters for policy decisions and investment decisions. Rejecting Keystone XL declares that business-as-usual is an unacceptable emission trajectory.

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[http://www.ec.gc.ca/Publications/253AE6E6-5E73-4AFC-81B7-9CF440D5D2C5/793-Canada's-Emissions-Trends-2012\\_e\\_01.pdf](http://www.ec.gc.ca/Publications/253AE6E6-5E73-4AFC-81B7-9CF440D5D2C5/793-Canada's-Emissions-Trends-2012_e_01.pdf)); Pembina Institute, *Getting on Track for 2020: Recommendations for greenhouse gas regulations in Canada's oil and gas sector*, 7-13 (Apr. 2013).

<sup>4</sup> *Id.* at 1.4-31 (“...capital expenditures account for the largest share of total oil sands supply costs. Oil sands projects are generally capital-intensive...”); Deloitte, *Gaining Ground in the Sands 2014*, 14-16 (2014) (online at: [http://www.deloitte.com/assets/Dcom-Canada/Local%20Assets/Documents/EandR/ca\\_en\\_energy\\_resor\\_\\_GainingGround2014\\_1200x627\\_011314.pdf](http://www.deloitte.com/assets/Dcom-Canada/Local%20Assets/Documents/EandR/ca_en_energy_resor__GainingGround2014_1200x627_011314.pdf)) (citing Conference Board of Canada forecast that tar sands need \$364 billion of investment between 2012 and 2035); FSEIS at 1.4-45 (existing pipeline capacity could be fully utilized by 2016 (citing International Energy Agency) or 2015 (citing Goldman Sachs)); Gerry Angevine, *The Canadian Oil Transport Conundrum*, Fraser Institute (Sep. 23, 2013) (online at: <http://www.fraserinstitute.org/research-news/display.aspx?id=20415>) (finding that “oil pipeline infrastructure bottlenecks costing Canadian economy billions of dollars).

<sup>5</sup> *Id.* at 1.4-45 to 1.4-47; Transcanada’s new Energy East proposal, which just had its project description filed with the National Energy Board of Canada last month, would carry 1.1 million bpd. Transcanada, *Energy East Files Project Description with NEB* (online at: <http://www.energyeastpipeline.com/energy-east-files-project-description-with-neb/>); Canadian Energy Research Institute, *Pacific Access: Part I – Linking Oil Sands Supply to New and Existing Markets*, 28 (July 2012) (online at: [http://www.ceri.ca/images/stories/part\\_i\\_-\\_impacts\\_of\\_oil\\_sands\\_production\\_-\\_final\\_july\\_2012.pdf](http://www.ceri.ca/images/stories/part_i_-_impacts_of_oil_sands_production_-_final_july_2012.pdf)) (“KXL is likely, therefore to be moving Canadian bitumen before any of the other major pipeline projects considered in this report.”)

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Rejecting Keystone XL will raise the near-term costs of tar sands oil by raising transport costs and limiting access to world markets, making new tar sands projects less viable on the margin. Rejecting Keystone XL will also make tar sands a less attractive investment by creating substantial uncertainty regarding the long-term viability of this industry. These effects will slow the growth of tar sands development, and its additional carbon pollution, from what they otherwise would have been. Rejecting Keystone XL also tells other nations that the United States is serious about fighting climate change. All the diplomacy in the world will not work if we do not back up our words with action.

Of course, rejecting the Keystone XL pipeline will not stop all tar sands development and it will not, by itself, solve climate change. Because of the multiplicity of sources of carbon pollution, no single project could ever be the be-all-and-end-all for climate change. But there is no other project in the United States that would have a greater effect on climate change. If we don't take a stand here, where do we take a stand?

And, as few understand better than you, if we do not take a stand now to fight climate change, we will doom our children, our grandchildren and all generations to come to life on an increasingly inhospitable and dangerous planet. The right choice is clear, and we are confident that you will make it.

Sincerely,



Henry A. Waxman  
Ranking Member  
Committee on Energy and  
Commerce



Sheldon Whitehouse  
Chairman  
Subcommittee on Clean Air and  
Nuclear Safety,  
Senate Committee on  
Environment and Public Works

Enclosure: Comments on the FSEIS

cc: The Honorable Ernest Moniz  
Secretary  
U.S. Department of Energy

The Honorable Gina McCarthy  
Administrator  
U.S. Environmental Protection Agency